

STATEMENT OF ANNETTE SANDBERG, ADMINISTRATOR
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION AND
INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS, TRANSIT AND PIPELINES
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Chairman Petri, Ranking Member DeFazio, and Members of the Subcommittee, thank you for inviting me to discuss hazardous materials (HM) endorsement background checks. I am pleased to appear before you to describe the Federal Motor Carrier Safety Administration's (FMCSA's) role in enforcing these background checks and how we work with our partners at the Transportation Security Administration (TSA) to ensure the safe and secure transportation of hazardous materials across our nation's highways.

The Commercial Vehicle Safety Act of 1986 established the Commercial Drivers License (CDL) Program and CDL Information System (CDLIS). The goal of the CDL program is to ensure that persons who operate commercial motor vehicles have only one driver's license at a time. CDLIS enables States to exchange commercial driver licensing information. It includes the databases of fifty-one licensing jurisdictions and the CDLIS Central Site. FMCSA's role in the CDL program is to verify the CDL program is uniformly and properly administered by all 51 jurisdictions, including enforcing State compliance with the TSA's HM security threat assessments.

To obtain a CDL, applicants must complete an application form certifying they are medically qualified and not subject to a disqualification in another State. Additionally, the applicant must pass a general knowledge and applicable endorsement knowledge tests and a skills test in a representative commercial motor vehicle. Upon

surrender of a current non-CDL license, the applicant is issued a CDL with applicable Class and endorsements.

Drivers wishing to transport hazardous materials must obtain an HM endorsement to the CDL. As a part of the licensing process, applicants are required to satisfactorily pass a knowledge test related to HM transportation. The second part of the HM endorsement process requires the driver to undergo a criminal background check, otherwise known as security threat assessment. TSA is responsible for conducting all security threat assessments. To obtain an HM endorsement, the driver submits to fingerprinting by a State or TSA agent and provides proof of citizenship or immigration status. Fingerprints are sent to the Federal Bureau of Investigations (FBI) for a criminal background check while TSA checks information from national and international databases. TSA provides the results to the State DMV, which issues or denies the endorsement. If an applicant is deemed to be a security risk and, therefore, denied an HM endorsement, the applicant may appeal the risk determination to TSA. If overturned on appeal, the applicant may then be issued a CDL with an HM endorsement.

FMCSA has a significant role to play in promoting and verifying State compliance with TSA's HM security threat assessment requirements. FMCSA verifies State compliance in two ways. First, we conduct a regular CDL State compliance review every 3 years. Second, we conduct a special CDL compliance review anytime the Agency receives a complaint that a State is not following proper procedures.

FMCSA conducts compliance reviews (CRs) on the CDL program not only to verify State's compliance with the TSA HM security threat assessment but to promote nationwide compliance and uniformity of Part 384 of the Federal Motor Carrier Safety

Regulations (FMCSRs). The CR program is a comprehensive on-site examination of the State's CDL program. During the review, FMCSA works with the States to improve highway safety and reduce CDL fraud by assessing the effectiveness of the State's CDL program and compliance with the 29 requirements listed in Part 384. FMCSA identifies legal, technical, operational, and administrative deficiencies in State CDL programs, establishes a mechanism for monitoring States' progress in correcting serious program deficiencies or areas of non-compliance, and assesses State vulnerability to CDL fraud.

FMCSA averages about 15 CDL CRs a year. In FY 2004 and 2005, FMCSA made improvements to its CDL program, including developing on-site review training for States, incorporating Motor Carrier Safety Improvement Act (MCSIA) implementation and CDL fraud vulnerabilities assessments into the process, and established a CDL sanctioning process for States found to be in substantial non-compliance. States found to be out of compliance with any of the CDL requirements will have 5 percent of certain Federal-aid highway funds withheld the first year and 10 percent the second and subsequent years of non-compliance. FMCSA may decertify a State's CDL program, prohibiting the State from issuing CDLs, if the deficiency that caused the substantial non-compliance affects a substantial number of either CDL applicants or drivers.

FMCSA has modified the CR process to ensure, through proper oversight, that a State (1) has the statutory authority to enforce the TSA threat assessment requirements; and (2) is following proper procedures in issuing a CDL with an HM endorsement. Since TSA implemented the security threat assessment on January 31 for drivers obtaining an HM endorsement for the first time, three CRs with the HM component have been

conducted in the District of Columbia, Tennessee, and Idaho. No substantial non-compliance findings regarding the HM endorsement process were found in these reviews.

Mr. Chairman, TSA has the lead in developing and implementing the process that States must follow to conduct the HM security threat assessments. FMCSA reviews State compliance with TSA's requirements and verifies all States have a solid and compliant CDL program. By verifying regulatory compliance, FMCSA activities are a significant contribution to increased safety and security for HM transport.

Mr. Chairman, I look forward to continuing this partnership as we move forward with the implementation of this very important program. FMCSA will continue to work with TSA to iron out any differences and inefficiencies to ensure that the program works seamlessly across agency and departmental lines, keeps unsafe and unsecure drivers off our nation's highways, and provides for adequate State compliance and enforcement of the CDL program. Accomplishing these goals will allow us to maintain the safety and security of America's communities.